

EXHIBIT 2

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NATIONAL COALITION ON BLACK
CIVIC PARTICIPATION, et al.,
Plaintiffs,
v. CIVIL ACTION NO:
JACOB WOHL, et al., 1:20-CV-08668-VM-OTW
Defendants.

_____/ Volume I

The videotaped deposition of ROBERT MAHANIAN
was held via Zoom on Thursday, February 17, 2022,
commencing at 8:18 a.m. before Esther Levi, Notary
Public.

REPORTED BY: Esther Levi

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1 Right?

2 A. Yes.

3 Q. Okay.

4 Can we go to the first-in-time e-mail, which
5 is at the bottom of the page? And it's sent on
6 Wednesday of August 26th, 2020.

7 Correct?

8 A. Yes.

9 Q. And I'll -- this -- this -- it says from
10 Mr. Wohl, I just uploaded the WAV file successfully and
11 updated the calls per minute number to the maximum. We
12 should be ready to go now.

13 Did I read that accurately?

14 A. Yes.

15 Q. So is it fair to assume that he -- Mr. Wohl
16 is uploading that call that we just heard that you just
17 testified was sent in August of 2020? Correct?

18 A. I don't know what he uploaded.

19 Q. Okay.

20 Can we go to Exhibit 5, please? And this
21 is -- it should be 22975 at the bottom right. I just
22 want to make sure you have the right one.

23 Is that right?

24 A. The account log file is what you're
25 referring to?

1 Sorry.

2 BY MR. DUFFY:

3 Q. So -- and does each account have one of
4 these in your system?

5 A. Yes.

6 Q. Okay.

7 So if you go to -- let me see, it's hard for
8 me to read this -- Page 2. Do you see where it says,
9 the third line down, Wednesday, August 26th at 7:38 and
10 17 seconds? Do you see that?

11 A. Yes.

12 Q. And it says JM Burkman and Associates, LLC
13 in the second line.

14 Do you see that?

15 A. Yes.

16 Q. Is that how you tell that this is the
17 JM Burkman's and Associates' account? As Message --
18 you know, Message Communications -- is that how you --
19 Message Communications determines whose account it is?

20 A. That's one way to identify it.

21 Q. And what is another way to identify it?

22 A. By the file name.

23 Q. Okay.

24 And you said there's no file name on this.

25 Is that -- is that your testimony?

1 A. The file is a PDF file. It doesn't have the
2 original file name.

3 Q. Okay.

4 So in your -- I'm just trying to understand
5 your system. So in your system, if you want to go look
6 up an account, there's the account name and you click
7 on that, and then -- and then this document comes up?

8 A. No.

9 Q. So how would you access this document?

10 A. I could open up the text file --

11 Q. Okay.

12 A. -- that contains this information.

13 Q. But if you -- are you able to search by
14 account in your -- in your system?

15 A. Yes.

16 Q. Okay.

17 And if you search by account for JM Burkman
18 and Associates, would this document be housed somewhere
19 within that account folder?

20 A. Yes.

21 Q. Okay.

22 And if you look at the next -- the second
23 line on this page, it says Wednesday, August 26th at
24 7:37 and 7 seconds.

25 Do you see that line?

1 A. Yes.

2 Q. And it says, Administration customer
3 uploaded answer -- answering machine recording WAV
4 file.

5 Do you see that?

6 A. Yes.

7 Q. And it says, Name: 1599 Vote By Mail
8 Robocall.WAV.

9 Can you see that?

10 A. Yes.

11 Q. So is this -- is this a -- an uploading of a
12 -- of a WAV file that is a call that can be placed by
13 Message Communications? Is that fair to say?

14 A. This line indicates that a file named 1599
15 Vote By Mail Robocall.WAV was uploaded to our platform.

16 Q. Okay.

17 Is -- and is there anything on this form
18 that indicates that that -- that WAV file was placed by
19 Message Communications?

20 A. Yes.

21 Q. And what is that?

22 A. Well, it doesn't necessarily mean it was
23 placed, but the campaign was turned on at 7:38 and 51
24 --

25 Q. And where -- I'm sorry, I didn't mean to cut

1 you off. Please.

2 A. At 7:38 and 51 seconds.

3 Q. Okay.

4 So that's where it says, Successfully
5 enabled 5LD JM Burkman and Associates.

6 Is that right?

7 A. Yes.

8 Q. Okay.

9 So is it your testimony -- I'm just trying
10 to understand -- that Message Communications did not
11 place that robocall that we heard earlier?

12 A. No.

13 Q. So they -- Message Communications did place
14 that and send it out.

15 Is that correct?

16 A. Message Communications transmitted
17 JM Burkman and Associates' uploaded robocall. The
18 customer transmitted it. We are a platform.

19 Q. Okay.

20 And what do you -- what is your
21 understanding of what transmitted means?

22 A. I take it by the common understanding
23 that --

24 Q. And what is that understanding? Sorry, I
25 didn't mean to cut you off.

1 A. That it was sent.

2 Q. Okay.

3 So when I say this shows that Message
4 Communications sent the robocall, would you agree with
5 me that that's accurate?

6 A. By sent, it means it was transmitted on
7 behalf of a client of Message Communications.

8 Q. Okay.

9 But the -- but the client didn't send out
10 the call on its own.

11 Right?

12 A. The client did send it out on their own.

13 Q. But the client doesn't have access to your
14 -- to your technology.

15 Is that accurate?

16 A. The client does have access to our
17 technology.

18 Q. Okay.

19 But the -- then why do clients come to you?
20 Just in general.

21 A. To use our web platform to transmit their
22 calls.

23 Q. Okay.

24 And when you say our, you mean Message
25 Communications.

1 Correct?

2 A. Yes.

3 Q. Okay.

4 So can we go back to Exhibit 4? Actually,
5 can we put them -- I'm going to ask if you could just
6 look at our screen for this one.

7 MR. DUFFY: Can we put them both up on the
8 screen, Miriam?

9 BY MR. DUFFY:

10 Q. Can you see both -- both of the exhibits we
11 just discussed on the -- on the screen, Mr. Mahanian?

12 A. Yes.

13 Q. So you said -- you pointed me to -- you said
14 -- when I asked if there's anything that shows the call
15 was transmitted, you pointed me to the line that said,
16 Successfully enabled.

17 Do you remember doing that?

18 A. Yes.

19 Q. And what's the date on that -- associated
20 with that log?

21 A. The campaign was enabled at 7:38 and 51
22 seconds.

23 Q. On -- on what date?

24 A. August 26th.

25 Q. Okay.

1 And if you look at the other -- the other --
2 Exhibit 4, the first-in-time e-mail, it says -- what's
3 the date of that e-mail?

4 A. Wait, I'm sorry, which e-mail are you
5 referring to?

6 Q. Exhibit 4. There's only one e-mail, I'm
7 sorry.

8 A. The date -- the date of the e-mail from
9 Jacob Wohl or the date of my e-mail to Mr. Jacob Wohl
10 and Jack Burkman?

11 Q. Well, they're the same date. Aren't they?

12 A. That's August 26th. It's the same date,
13 different times.

14 Q. Yes. So is it your testimony that the
15 call -- well, strike that.

16 I believe you said it's your understanding
17 that the JM Burkman and Associates account, that Jack
18 Burkman was associated with that account.

19 Is that correct?

20 A. Yes.

21 Q. And Jacob Wohl was associated with that
22 account.

23 Is that correct?

24 A. Jacob Wohl was, like I stated earlier,
25 within e-mails that were transmitted back and forth,

1 State of Maryland

2 City of Baltimore, to wit:

3 I, Esther Levi, a Notary Public of the State
4 of Maryland, do hereby certify that the within-named
5 witness personally appeared before me at the time and
6 place herein set out, and after having been duly sworn
7 by me, according to law, was examined by counsel.

8 I further certify that the examination was
9 recorded stenographically by me and this transcript is
10 a true record of the proceedings.

11 I further certify that I am not of counsel to
12 any of the parties, nor in any way interested in the
13 outcome of this action.

14 As witness my hand this 3rd day of March,
15 2022.

16
17
18
19 
20

Esther Levi

21 Notary Public

22
23
24 My commission expires:

25 July 8, 2023